



Northwest Justice Project

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César E. Torres
Executive Director

September 4, 2008

Chief Justice Gerry Alexander
Washington Supreme Court
Temple of Justice
Olympia, WA 98504

Mr. Stanley Bastian, President
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, WA 98101-2539

Re: Practice of Law Board's Proposed Rule to Create Licensed Legal
Technicians

Dear Chief Justice Alexander and President Bastian:

I write on behalf of the Northwest Justice Project (NJP) regarding the proposed rule to create and license Legal Technicians to provide limited legal services in the area of family law. NJP supports the Practice of Law Board's effort to expand access to legal assistance for all persons. However, as the largest civil legal services provider for the poor in Washington we wish to express our concern with one stated purpose of the Rule, to increase access to legal services for low and moderate income persons. We also want to join comments with respect to protection of consumers of legal services provided by non-lawyers by ensuring the quality of services and enforcing licensing requirements.

Specifically, NJP is concerned that the discussion as to the benefits of the proposed Legal Technician rule may inadvertently misconstrue the nature of legal assistance needed by low income persons seeking help from the existing legal aid delivery system. We caution against the suggestion that Legal Technicians will help address the primary unmet civil legal needs of low income persons with family law issues. While it is no doubt true that Legal Technicians will be able to serve moderate income people in some narrow and limited instances, the potential availability of Legal Technicians will not alleviate the identified unmet high priority family law needs of low income persons that the current legal aid system cannot now serve due to limited resources.



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The overwhelming demand for legal assistance for low income persons with family law matters involves custody and/or domestic violence issues. When child custody issues are present, and when domestic violence is a factor in a family law case, the complexities of the case are such that it is beyond the scope of services envisioned by the proposed Rule, and properly so. The ability of a victim/survivor to secure her and her child(ren)'s safety, and the protection of their legal interests, requires access to high quality legal advice and representation -- assistance that cannot be provided by a Legal Technician. Thus, to the extent that comments on the Rule may create a perception or impression that "less costly" Legal Technicians can adequately serve the legal needs not able to be addressed by the over-subscribed traditional legal aid system or by community-based domestic violence agencies, NJP submits that the perception or impression is inaccurate.

Moreover, while NJP strongly supports the goals of the rule, we are also concerned that the creation of Legal Technicians may have an unwitting adverse impact on the role and continuing availability of Courthouse Facilitators. Courthouse Facilitators presently meet a critical need by providing free or very low cost self-help assistance to low income litigants forced to proceed unrepresented. Low income persons who are financially eligible for NJP services, but unable to be served due to limited resources, will likely be no more able to afford the services of Legal Technicians than they are able to afford to hire an attorney. As such, there will continue to be a critical need for free or very low cost Courthouse Facilitators.

Courthouse Facilitators serve both the public and the courts and are supported in part through funds generated by county-authorized surcharges on civil filing fees. Legal Technicians will be authorized to perform many services currently being provided by Courthouse Facilitators. Our concern is that the creation of Legal Technicians should not undermine Courthouse Facilitators or contribute to them becoming an easy target for County Commissioners seeking to balance strapped court budgets on the theory that low cost Legal Technicians are now able to fill the Courthouse Facilitator function. Thus, we ask that in considering adoption of the Rule the Court and WSBA acknowledge the value of Courthouse Facilitators and encourage the continuing availability of this important resource.

Finally, NJP shares the Pro Bono and Legal Aid Committee's (PBLAC's) concern with the need for strong enforcement of existing and future licensing requirements and monitoring the quality of the Legal Technician services to be provided. NJP has represented many clients in efforts to vacate or modify orders obtained through the use of unlicensed independent paralegal services because significant rights have been violated or important interests have been left unprotected in the process. In this regard, however, it is important that the costs of launching a Legal Technician and licensing and enforcement system not limit or reduce resources now available for existing access to justice efforts or the civil legal aid delivery system.

We greatly appreciate this opportunity to comment on the proposed Legal Technician rule and recognize the serious consideration given by all to improve and expand access to justice for all persons in Washington.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Perluss".

Deborah Perluss
Director of Advocacy/General Counsel
Northwest Justice Project

C Cesar E. Torres, Exec. Director